

AMENDED IN ASSEMBLY AUGUST 16, 1999

AMENDED IN ASSEMBLY JULY 8, 1999

AMENDED IN SENATE APRIL 20, 1999

AMENDED IN SENATE APRIL 8, 1999

AMENDED IN SENATE APRIL 5, 1999

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**SENATE BILL**

**No. 367**

**Introduced by Senator Dunn**

February 11, 1999

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An act to add Section 1010.6 to the Code of Civil Procedure, and to amend Section 6159 of the Government Code, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 367, as amended, Dunn. Court filings: electronic transmission.

Existing law authorizes the Judicial Council to adopt rules permitting the filing of papers by facsimile transmission.

This bill would authorize a trial court to adopt local rules of court permitting electronic filing and service of documents, as specified. The bill would further require the Judicial Council, by January 1, 2003, to adopt uniform rules of court for these purposes, *as specified*, which conform to the same conditions.

Existing law authorized a court to accept credit card payments upon approval of the board of supervisors.

This bill would make that authorization subject, instead, to the approval of the Judicial Council, would make the approval of credit card fees imposed by courts subject to Judicial Council approval. The bill would also authorize the Judicial Council to enter into specified agreements with credit card companies.

The bill would also make a statement of legislative intent.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1010.6 is added to the Code of  
2 Civil Procedure, to read:

3 ~~1010.6. (a) Except as governed by rules adopted~~  
4 ~~pursuant to subdivision (b), a trial court may adopt local~~  
5 ~~rules permitting electronic filing and service of~~  
6 ~~documents, subject to~~

7 *1010.6. (a) A trial court may adopt local rules*  
8 *permitting electronic filing and service of documents,*  
9 *subject to rules adopted pursuant to subdivision (b) and*  
10 *the following conditions:*

11 (1) A document that is filed electronically shall have  
12 the same legal effect as an original paper document.

13 (2) (A) When a document to be filed requires the  
14 signature, not under penalty of perjury, of an attorney or  
15 a person filing in propria persona, the document shall be  
16 deemed to have been signed by that attorney or person  
17 if filed electronically.

18 (B) When a document to be filed requires the  
19 signature, under penalty of perjury, of any person, the  
20 document shall be deemed to have been signed by that  
21 person if filed electronically and if, prior to filing, a  
22 printed form of the document has been signed by that  
23 person. The attorney or person filing the document  
24 represents, by the act of filing, that the declarant has  
25 signed the document. The attorney or person filing the  
26 document shall maintain the printed form of the  
27 document bearing the original signature and make it  
28 available for review and copying upon the request of the

1 court or any party to the action or proceeding in which  
2 it is filed.

3 (3) Any document that is electronically filed with the  
4 court after the close of business on any day shall be  
5 deemed to have been filed on the next court day. “Close  
6 of business,” as used in this paragraph, shall mean 5 p.m.  
7 or the time at which the court would not accept filing at  
8 the court’s filing counter, whichever is earlier.

9 (4) The court receiving a document filed  
10 electronically shall issue a confirmation that the  
11 document has been received and filed. The confirmation  
12 shall serve as proof that the document has been filed.

13 (5) Upon electronic filing of a complaint, petition, or  
14 other document that must be served with a summons, a  
15 trial court may electronically transmit a summons with  
16 the court seal and the case number to the party filing the  
17 complaint. Personal service of a printed form of the  
18 electronic summons shall have the same legal effect as  
19 personal service of an original summons. If a trial court  
20 plans to electronically transmit a summons to the party  
21 filing a complaint, the court shall immediately upon  
22 receipt of the complaint notify the attorney or party that  
23 a summons will be electronically transmitted to the  
24 electronic address given by the person filing the  
25 complaint.

26 (6) Where notice may be served by mail, express mail,  
27 overnight delivery, or facsimile transmission, electronic  
28 service of the notice and any accompanying documents  
29 may be authorized when a party has agreed to accept  
30 service electronically in that action. Electronic service is  
31 complete at the time of transmission, but any period of  
32 notice or any right or duty to do any act or make any  
33 response within any period or on a date certain after the  
34 service of the document, which time period or date is  
35 prescribed by statute or rule of court, shall be extended  
36 after service by electronic transmission by two court days,  
37 but the extension shall not apply to extend the time for  
38 filing notice of intention to move for new trial, notice of  
39 intention to move to vacate judgment pursuant to Section  
40 663a, or notice of appeal. This extension applies in the



1 absence of a specific exception provided for by any other  
2 statute or rule of court.

3 (7) The court shall permit a party or attorney to file an  
4 application for waiver of court fees and costs, in lieu of  
5 requiring the payment of the filing fee, as part of the  
6 process involving the electronic filing of a document. The  
7 court shall consider and determine the application in  
8 accordance with Section 68511.3 of the Government  
9 Code and shall not require the party or attorney to submit  
10 any documentation other than that set forth in Section  
11 68511.3 of the Government Code. Nothing in this section  
12 shall require the court to waive a filing fee that is not  
13 otherwise waivable.

14 (8) If a trial court adopts rules conforming to  
15 paragraphs (1) to (7), inclusive, it may provide by order  
16 that all parties to an action file documents electronically  
17 in a class action, a consolidated action, or a group of  
18 actions, a coordinated action, or an action that is deemed  
19 complex under Judicial Council rules, provided that the  
20 trial court's order does not cause undue hardship or  
21 significant prejudice to any party in the action.

22 (b) By January 1, 2003, the Judicial Council shall adopt  
23 uniform rules for the electronic filing and service of  
24 documents in the trial courts of the state, which *shall*  
25 *include statewide policies on vendor contracts, privacy,*  
26 *and access to public records. These rules* shall conform to  
27 the conditions set forth in this section, as amended from  
28 time to time.

29 SEC. 2. Section 6159 of the Government Code is  
30 amended to read:

31 6159. (a) As used in this section:

32 (1) "Credit card" means any card, plate, coupon book,  
33 or other credit device existing for the purpose of being  
34 used from time to time upon presentation to obtain  
35 money, property, labor, or services on credit.

36 (2) "Card issuer" means any person, or his or her  
37 agent, who issues a credit card and purchases credit card  
38 drafts.

39 (3) "Cardholder" means any person to whom a credit  
40 card is issued or any person who has agreed with the card

1 issuer to pay obligations arising from the issuance of a  
2 credit card to another person.

3 (4) “Draft purchaser” means any person who  
4 purchases credit card drafts.

5 (b) Subject to subdivision (c), a court, city, county,  
6 city and county, or other public agency may authorize the  
7 acceptance of a credit card for any of the following:

8 (1) The payment for the deposit of bail or for any fine  
9 for any offense not declared to be a felony.

10 (2) The payment of a filing fee or other court fee.

11 (3) The payment of any towage or storage costs for a  
12 vehicle that has been removed from a highway, or from  
13 public or private property, as a result of parking  
14 violations.

15 (4) The payment of child, family, or spousal support,  
16 including reimbursement of public assistance, related  
17 fees, costs, or penalties, with the authorization of the  
18 cardholder.

19 (5) The payment for services rendered by any city,  
20 county, city and county, or other public agency.

21 (6) The payment of any fee, charge, or tax due a city,  
22 county, city and county, or other public agency.

23 (c) A court desiring to authorize the use of a credit  
24 card pursuant to subdivision (b) shall obtain the approval  
25 of the Judicial Council. A city desiring to authorize the use  
26 of a credit card pursuant to subdivision (b) shall obtain  
27 the approval of its city council. Any other public agency  
28 desiring to authorize the use of a credit card pursuant to  
29 subdivision (b) shall obtain the approval of the governing  
30 body that has fiscal responsibility for that agency. After  
31 approval is obtained, a contract may be executed with  
32 one or more credit card issuers or draft purchasers. The  
33 contract shall provide for:

34 (1) The respective rights and duties of the court, city,  
35 county, city and county, or other public agency and card  
36 issuer or draft purchaser regarding the presentment,  
37 acceptability, and payment of credit card drafts.

38 (2) The establishment of a reasonable means by which  
39 to facilitate payment settlements.

1 (3) The payment to the card issuer or draft purchaser  
2 of a reasonable fee or discount.

3 (4) Any other matters appropriately included in  
4 contracts with respect to the purchase of credit card  
5 drafts as may be agreed upon by the parties to the  
6 contract.

7 (d) The honoring of a credit card pursuant to  
8 subdivision (b) hereof constitutes payment of the amount  
9 owing to the court, city, county, city and county, or other  
10 public agency as of the date the credit card is honored,  
11 provided the credit card draft is paid following its due  
12 presentment to a card issuer or draft purchaser.

13 (e) If any credit card draft is not paid following due  
14 presentment to a card issuer or draft purchaser or is  
15 charged back to the court, city, county, city and county,  
16 or other public agency for any reason, any record of  
17 payment made by the court, city, or other public agency  
18 honoring the credit card shall be void. Any receipt issued  
19 in acknowledgment of payment shall also be void. The  
20 obligation of the cardholder shall continue as an  
21 outstanding obligation as if no payment had been  
22 attempted.

23 (f) Notwithstanding Title 1.3 (commencing with  
24 Section 1747) of Part 4 of Division 3 of the Civil Code, a  
25 court, city, county, city and county, or any other public  
26 agency may impose a fee for the use of a credit card, not  
27 to exceed the costs incurred by the agency in providing  
28 for payment by credit card. These costs may include, but  
29 shall not be limited to, the payment of fees or discounts  
30 as specified in paragraph (3) of subdivision (c). Any fee  
31 imposed by a court pursuant to this subdivision shall be  
32 approved by the Judicial Council. Any fee imposed by any  
33 other public agency pursuant to this subdivision for the  
34 use of a credit card shall be approved by the governing  
35 body responsible for the fiscal decisions of the public  
36 agency.

37 (g) Fees or discounts provided for under paragraph  
38 (3) of subdivision (c) shall be deducted or accounted for  
39 prior to any statutory or other distribution of funds  
40 received from the card issuer or draft purchaser to the

1 extent not recovered from the cardholder pursuant to  
2 subdivision (f).

3 (h) The Judicial Council may enter into a master  
4 agreement with one or more credit card issuers or draft  
5 purchasers for the acceptance and payment of credit card  
6 drafts received by the courts. Any court may join in any  
7 of these master agreements or may enter into a separate  
8 agreement with a credit card issuer or draft purchaser.

9 SEC. 3. It is the intent of the Legislature in enacting  
10 this act to do both of the following:

11 (a) To provide for the eventual standardization of  
12 electronic filing and service procedures on a statewide  
13 level.

14 (b) To provide that a court shall not adopt an  
15 electronic filing procedure that requires a litigant or  
16 attorney to possess specialized, cumbersome, or  
17 expensive equipment or software to utilize the electronic  
18 filing system.

